

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NRRM, LLC, f/k/a National Dealers Warranty, Inc. Case No. 1:10-cv-4642
and Auto Warranty Protection Services; MARK Honorable Gary Feinerman
TRAVIS; and NICHOLAS HAMILTON,

Plaintiffs/Counter-Defendants,

v.

MEPCO FINANCE CORPORATION,

Defendant/Counter-Plaintiff,

and

MEPCO FINANCE CORPORATION,

Third-Party Plaintiff,

v.

THE CHOICE MANUFACTURING CO. INC.,

Third-Party Defendant,

and

THE CHOICE MANUFACTURING CO. INC.,

Cross-Plaintiff,

v.

NRRM, LLC, f/k/a National Dealers Warranty, Inc.
and Auto Warranty Protection Services,

Cross-Defendant/Counter-Cross-Plaintiff,

And

MARK TRAVIS; and NICHOLAS HAMILTON,

Cross-Defendants.

MEPCO FINANCE CORPORATION'S
MOTION FOR ENTRY OF JUDGMENT
AGAINST THE CHOICE MANUFACTURING
CO., INC.

MEPCO FINANCE CORPORATION'S MOTION FOR ENTRY OF JUDGMENT
AGAINST THE CHOICE MANUFACTURING CO., INC.

Mepco Finance Corporation ("Mepco"), by and through its counsel, hereby moves as follows:

1. In its April 21, 2015, Memorandum Opinion and Order, the Court granted Mepco's Motion for Summary Judgment against the Choice Manufacturing Co., Inc. ("Choice") and held that Choice is liable to Mepco in the amount of \$4,866,140.75. (Dkt. # 209 at 7.)

2. Based on this ruling, Mepco requests that the Court enter judgment in favor of Mepco and against Choice in the form attached hereto as **Exhibit A**.

3. In addition to the principal amount owed, Choice is also liable for interest under the Administrator Agreement with Mepco at a rate of 18 percent per annum. (Dkt. 16-1 at ¶3(d).)

4. The award of prejudgment interest in this case is governed by Illinois law. *See Perlman v. Zell*, 185 F.3d 850, 857 (7th Cir. 1999) ("prejudgment interest depends on the law that supplies the substantive rule of decision"). Under Illinois law, a party is entitled to receive prejudgment interest pursuant to an express contract provision allowing interest at a specific rate. *See, e.g., Premier Electrical Construction Co. v. American National Bank*, 276 Ill. App. 3rd 816, 829; 658 N.E.2d 877 (1995); *Medcom Holding Co. v. Baxter Trevenol Lab, Inc.*, 200 F.3d 518, 519 (7th Cir. 1999).

5. As set forth above, there is an express contract provision that governs prejudgment interest in this case, as Mepco and Choice agreed in the Administrator Agreement that Mepco would be entitled to interest at the rate of 18 percent per annum on any past due amount. Mepco is therefore entitled to interest at the contractual rate. *See, e.g., Pennsylvania Truck Lines, Inc. v. Solar Equity Corporation*, 1987 Westlaw 9979 at *1 (N.D. Ill. Apr. 21,

1987) (awarding prejudgment interest at the contractual rate of 18 percent per annum); *Leaf Funding, Inc., v. Vincent R. Crescenzo, D.D.S., Ltd.*, 2011 Westlaw 2960729 at *1 (N.D. Ill. July 20, 2011) (awarding prejudgment interest at the contractual rate of 18 percent per annum); *CSX Insurance Co. v. Pacific Rail Services*, 2011 Westlaw 1692166 at *1 (N.D. Ill. May 3, 2011) (awarding prejudgment interest at the contractual rate of 18 percent per annum).

6. In this case, Mepco has calculated its award of prejudgment interest at the contractual rate from the date that it filed its Third Party Complaint through the date of its filing of this Motion. While Mepco is entitled to significant additional interest for amounts that became due before it filed its Complaint, Mepco has shortened the time period for convenience in calculating the amount owed.

7. Finally, "[as] a general rule, the decision whether to award compound or simple prejudgment interest is left to the discretion of the trial court." *Am. Nat'l Fire Ins. v. Yellow Freight Sys.*, 325 F.3d 924, 937 (7th Cir. 2003). However, as the Seventh Circuit has noted, because prejudgment interest is an element of complete compensation, "compound prejudgment interest is the norm in federal litigation." *Id.* at 937-38; *see also CIT Communication Fin. Corp. v. Wes-Tech Auto. Solutions, LLC*, 2011 WL 1807041 at *2 (N.D. Ill. May 11, 2011) (holding that the Seventh Circuit's observation that compound interest more fully compensates a plaintiff holds true for both federal and state law claims) (citing *Am. Nat'l Fire Ins.*, 325 F.3d at 938). In this case, if prejudgment interest is compounded annually, it results in an interest award of \$5,903,510.52. (See annual compound interest calculation, **Exhibit B**.) If prejudgment interest is calculated based on simple interest, it results in an interest award of \$4,192,346.90. (See simple interest calculation, **Exhibit C**.)

WHEREFORE, Mepco respectfully requests that the Court enter judgment in favor of Mepco and against Choice in the form attached hereto as **Exhibit A**.

Respectfully submitted,

Date: June 17, 2015

VARNUM LLP

Attorneys for Mepco Finance Corporation

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 17th day of June, 2015, a true and correct copy of the foregoing was served via the Court's ECF system to:

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